

CONSOLIDATED TV CABLE SERVICE, INC.)
AND HOWARD NORRELL)
COMPLAINANTS)
VS.) CASE NO. 9458
SOUTH CENTRAL BELL TELEPHONE)
COMPANY)
DEFENDANT)

O R D E R

On November 8, 1985, a formal complaint was filed against South Central Bell Telephone Company ("SCB") by Consolidated TV Cable Service, Inc., and Howard Norrell, of 226 West Main Street, Frankfort, Kentucky. Consolidated is a cable television service owned and operated by Howard Norrell. The co-complainants will herein be referred to as "Consolidated". Consolidated pays SCB for the use of pole space to attach its cable lines. The associated rate is an approved SCB tariff rate (Tariff 1F). The subject tariff evolved out of this Commission's Administrative Case No. 251, which established a standard methodology for pole attachment rates to be applied to all CATV companies.

Prior to the adoption of the pole attachment tariff, CATV companies would establish private contracts with utility companies for this service. However, the final order in Administrative Case No. 251 stated that on and after the effective date of the pole

attachment tariffs all existing private contracts would be superseded.

Consolidated claims that Community Service, Inc., ("Community"), a CATV company operated in conjunction with the Electric and Water Plant Board of the City of Frankfort, has not been charged by SCB according to the tariffed rate and that SCB has provided these attachments and associated survey and make-ready costs to Community free of charge, in violation of KRS 278.170.

Consolidated has come before this Commission requesting that SCB be ordered to:

- 1) Refund all sums paid to Bell by Consolidated under Tariff 1F (or, alternatively, collect all sums due from Community Service, Inc. under Tariff 1F from October 13, 1983 through the present); and
- 2) Cease and desist in its discrimination against Consolidated.

The Commission in its November 14, 1985, Order, instructed SCB to respond to Consolidated's allegations. SCB's response was received on November 27, 1985.

In its response SCB stated that it has not provided pole attachments free of charge, nor has it granted an illegal preference to Community. SCB and the Frankfort Electric and Water Plant Board have a joint use agreement which allows the parties to make attachments on each others' poles without an explicit charge. As part of this joint use agreement, Community is also allowed to make attachments on SCB poles.

This provision for Community's CATV attachments was part of an amendment dated September 10, 1952, to the said joint use agreement, and was submitted as Exhibit A in SCB's November 27, 1985, response.

Submitted as Exhibit B in SCB's response was a copy of a letter dated October 24, 1985, from SCB to the Frankfort Electric and Water Plant Board cancelling the joint use agreement effective 1-year from receipt of the letter. The 1-year notice period was a condition of the joint use agreement.

In the Order in Administrative Case No. 251 it was stated that CATV providers were not joint users, and so a provision for the termination of this type of an agreement, where a CATV company was part of an electric utility's joint use agreement, was not established as part of the record in that case.

The Commission, having considered the evidence of record and being advised, is of the opinion and finds that:

1. This case should be dismissed as SCB has terminated its joint use agreement with Community to be effective October 1986.

2. SCB should begin to charge Community the appropriate tariffed pole attachment rate as of the effective termination date of the joint use agreement.

3. SCB should research its records for any such similar joint use agreements and report its findings to the Commission within 30 days from the date of this Order.

IT IS THEREFORE ORDERED that:

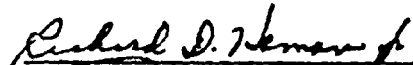
1. This case be and hereby is dismissed.

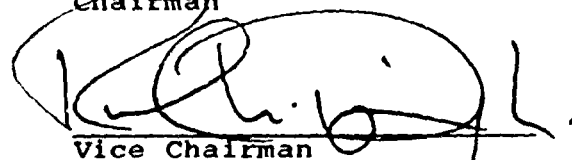
2. SCB shall begin to charge Community the appropriate tariffed pole attachment rate as of the effective termination date of the joint use agreement.

3. SCB shall research its records for any such similar joint use agreements and report its findings to the Commission within 30 days from the date of this Order.

Done at Frankfort, Kentucky, this 2nd day of May, 1986.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Secretary